

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LINDA D. BURGER,

Plaintiff,

vs.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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Case No. 1:14-cv-985

Judge Timothy S. Black

ORDER GRANTING DEFENDANT’S MOTION TO DISMISS (Doc. 9)

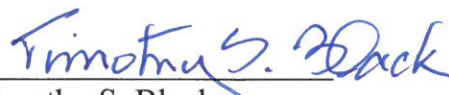
This civil action is before the Court on Defendant’s motion to dismiss Plaintiff’s untimely complaint. (Doc. 9).¹ Plaintiff failed to timely oppose the motion, so this Court issued an Order to Show Cause why the motion to dismiss should not be granted for the reasons stated therein. (Doc. 10). Plaintiff responded to the Order to Show Cause, stating that “[a]fter careful consideration...Counsel chose not to file a response because Counsel could not formulate a response that complied with its ethical obligation before this Court to present only arguments that are well-founded in fact and law.” (Doc. 11 at 1). Moreover, Plaintiff noted that “[h]ad Defendant’s counsel contacted Plaintiff’s Counsel and provided him with advance notice of the motion, Counsel would have taken voluntary dismissal of the matter or otherwise indicated that the motion was unopposed.” (*Id.* at 2).

¹ Specifically, the ALJ’s decision became the Commissioner’s final decision when the Appeals Council denied review on Friday, October 24, 2011. (Doc. 9 at 4). In order to comply with the 60-day limitation specified in 42 U.S.C. Section 405(g), Plaintiff would have had to file her complaint by Monday, December 29, 2014. However, she did not file her complaint until January 2, 2015, four days after the deadline. (Doc. 3).

Accordingly, for the reasons stated in Defendant's motion to dismiss (Doc. 9), this civil action is hereby **DISMISSED** and **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

Date: 4/15/15



Timothy S. Black
United States District Judge